

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

BROMLEY HACKNEY,

Petitioner,

v.

JEFFREY WOLFE, Warden,

Respondent.

CASE NO. 2:06-cv-796
JUDGE HOLSCHUH

MAGISTRATE JUDGE KING

OPINION AND ORDER

On September 25, 2006, the Magistrate Judge issued a *Report and Recommendation* pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be dismissed as barred by the one-year statute of limitations under 28 U.S.C. §2244(d). On October 5, 2006, petitioner filed a request to amend his petition to include a claim that his sentence violates *Blakely v. Washington*, 542 U.S. 296 (2004), and that *State v. Foster*, 109 Ohio St.3d 1 (2006), is unconstitutional. *See* Doc. No. 5. Petitioner's request to amend the petition is **DENIED**. For the reasons discussed by the Magistrate Judge, this action is time-barred under 28 U.S.C. §2244(d)(2).

Construing petitioner's October 5, 2006, motion liberally as an objection to the Magistrate Judge's *Report and Recommendation*, *see Martin v. Overton*, 391 F.3d 710, 712 (6th Cir. 2004)(citations omitted), pursuant to 28 U.S.C. 636(b)(1), this Court has conducted a *de novo* review of the *Report and Recommendation*. Petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

IT IS SO ORDERED.

Date: October 20, 2006

/s/ John D. Holschuh
JOHN D. HOLSCHUH
United States District Judge